

**Minutes of the meeting of
The Scottish Public Information Forum (SPIF)
Friday 28th September 2018
1pm – 4.30pm
Dundee Women's Aid, North Lindsay Street, Dundee DD1 1PW**

- 1. Present:** Liz Blair - Reid Blair Solicitors Arran, Mandy Reid - independent communications consultant, Ian Smail - Dundee City Council, Stephen Miller - Dundee City Council, Sean Whittaker - University of Dundee, Charlene Mellor - Dundee City Council, Victoria Scott - Advocating Together, Fraser Page - Scottish Social Services Council, Alan Page - University of Dundee, John Toner – NUJ Scotland, Mary Henderson - FoE Tayside, Fiona Montgomery - Unison Scotland, Joy Graham - Unison Scotland, Lynn Graham - Kirkton Community and Safety Partnership, Sarah Hutchison – OSIC, Margaret Keyes – OSIC, Daren Fitzhenry – SIC, Graham Crombie - Fol Unit Scottish Government, Andrew Gunn - Fol Unit Scottish Government, Carole Ewart – CFoIS (**Minute Taker**), David Goldberg – CFoIS and Derek Manson-Smith – CFoIS (**Chair**)

Apologies: Janis McDonald deafscotland, Paul Mutch OSIC, Elizabeth Cairns Unite the Union and Paul Bradley Open Government Project Coordinator

- 2. Welcome** Derek Manson Smith, CFoIS, convened the meeting and explained SPIF is taking place as part of a programme of events globally on 28th September, to highlight the importance of people, everywhere and equally, being able to exercise their right to access information. Derek expressed our collective thanks and appreciation for the accommodation and lunch provided by Scottish Women's Aid.

Lucy Kapasi, Children Services Manager welcomed attendees to the offices of Dundee Women's Aid and explained about its confidential, and non-judgemental services for women, young people and children who have experienced domestic abuse. The abuse may be from a partner, ex-partner or someone they are living with. For more information on the range of services available go to <http://www.dundeewomensaid.co.uk/index.php>

- 3. Minutes** The minutes of last SPIF meeting of 5th March were approved and are available at <https://www.cfoi.org.uk/2018/02/scottish-public-information-forum-5th-march-2018/>

4. Moral Rights Should Be Human Rights

John Toner, NUJ National Organiser for Scotland delivered a presentation to mark 'International Right to Know Day' and UNESCO's 'International Day for Universal Access to Information' The presentation focused on the detail and impact of the *Copyright, Designs and Patents Act 1988*, the impact of its sections on authorship and on ownership of copyright and the importance of the author of articles, ie journalists, being able to assert their right to be

credited as the author. John talked about two rights: the right to accreditation; and the integrity right. It is the weakness of the latter that allows authors' works to be distorted. The big problem is that the right to attribution does not extend to those writing about current events such as those which appear in newspapers and periodicals. Therefore, journalists' copy can be mutilated depending on the editorial direction of newspapers. The law allows authors to waive their right and this is also problematic as journalists can be forced to surrender their right in order to secure a contract. For readers of published material, this legal and practical environment is problematic: How do you know that the credited author actually wrote the analysis? How do you know the article was written by that person? What component of the written word has used written material appropriated from another author who is not credited? More information is available from the Creative Rights Alliance which is founded on the right that: *Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author* which is contained in Article 27 (2) of the United Nations Universal Declaration of Human Rights.

Discussion

- When making FoI requests, it may be helpful if people ask who is the actual author of material that is published – not just the name that appears on a document.
- Article 10 of the European Convention on Human Rights (ECHR) is the right to form an opinion by receiving and imparting information so it is really important that people/organisations know where the information they are reading comes from so they can understand any slant in the analysis or selection of facts/check for fake news.

For more information on the legislation go to

<https://www.legislation.gov.uk/ukpga/1988/48/contents>

For more information on the Creative Rights Alliance go to

<http://www.creatorsrights.org.uk/>

5. Report from Scottish Information Commissioner

Daren Fitzhenry presented his Annual Report and emphasised:

- The importance of people understanding and being able to assert their information access rights.
- Willingness to intervene if public authorities are failing to properly discharge their FoISA duties as the focus is on understanding what needs to be fixed and assisting improvement.
- Preparations for RSLs being covered by FoISA and OSIC staff will need about nine months lead in time.
- A rights promotion project with the SYP targeted at children and young people.
- Participation in an EIR(S)s project with the University of Dundee, to assess impact and measure the change achieved – please participate.
- Promotion of FoI Practitioners Conference in Dundee in May 2019.
- Consultation on permanent secretariat for the ICIC.

Discussion

- Update provided on Interventions with the Scottish Government.
- Willingness to engage in the post legislative scrutiny of FoISA.
- Importance of OSIC assisting RSLs in complying with FoISA duties.
- Encourage engagement with schools on access to information rights around International Right to Know Day (28th Sept) and International Human Rights Day (10th Dec).

The report and accounts are available at

<http://www.itspublicknowledge.info/home/SICReports/AnnualReports.aspx>

6. Update from the Scottish Government

- Working well with OSIC on the interventions and meeting agreed targets, as well as exceeding some.
- There has been slippage in the timeline for coverage of RSLs by FoISA. The implementation date of 1st April 2019 will not be met. There is an intention that subsidiaries will be covered as well as RSLs.

Discussion

- Disappointment at the slippage of the timeline especially as the first timeline of 1st April 2018 was not met.
- If all subsidiaries are not to be covered then information on the criteria for coverage should be published for consultation.
- Keenness to ensure more pro-active publication by the Scottish Government as a result of specific FoISA requests.
- Need to extend FoISA to private companies and to voluntary organisations where they are delivering services of a public nature – the duty and the right should follow the money.
- In particular health and social care services should always be covered by FoISA. It was noted that Audit Scotland is expected to produce a report on this sector in November 2018.

7. Report from Europe – Dr David Goldberg, CFoIS

• The Tromso Convention

Text is here <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/205>

The Parliament of Ukraine has recently voted not to ratify the Convention. This would have been the necessary tenth ratification thus bringing the Treaty into force. The key gain would have been the bringing into being of the Article 11 Group of Specialists on Access to Official Documents

• Two European Court of Human Rights cases

Catalan v Romania - Civil servant not unfairly dismissed because of disclosing information to the press to the detriment of his employer

[https://www.coe.int/en/web/cdcj/-/article-10-freedom-of-expression-](https://www.coe.int/en/web/cdcj/-/article-10-freedom-of-expression)

ML and WW v Germany - Pair lose 'right to be forgotten' over murder conviction as human rights court rules in favour of public's right to access archived news. See <http://www.pressgazette.co.uk/pair-lose-right-to-be-forgotten-over-murder-conviction-as-human-rights-court-rules-in-favour-of-public-right-to-access-archived-news/>

• The EU

On 25 September the Court of Justice of the European Communities upheld the appeal by the European Parliament maintaining secrecy about MEPs' expenses etc <https://www.euronews.com/2018/09/25/top-eu-court-rules-to-keep-details-of-mep-expenses-secret>

A Note has been published about recording the position of Member States on draft legislation and restricting the use of the classification "Limite"

- **South African Constitutional Court**

Recent decision was mentioned – MyVoteCounts v Minister of Justice - The South African Constitutional Court held that the right to access information, read with the entitlement to exercise an informed right to vote, implicitly demanded that information on the private funding of political parties and independent candidates be recorded, preserved and made reasonably accessible to the public. See <https://globalfreedomofexpression.columbia.edu/cases/vote-counts-v-minister-justice-correctional-services/>

8. Extension of FoISA to RSLs – timelines and compliance

A specific new date for coverage is awaited from the Scottish Government and it was noted that 1st April 2019 would no longer apply. It was also noted that an announcement is awaited on whether **all RSL subsidiaries** will be covered by FoISA.

9. Sector/Issue Updates

Inclusive Communication - Mandy Reid explained that she has over 30 years of experience in working with Third Sector organisations and recognises that much more needs to be done to effectively communicate with the public and with service users. Mandy reported on the principles of inclusive communication and advised that too often agencies are failing to effectively communicate with people who are deaf, who are partially sighted, who are blind, who have learning disabilities and with those people who just need to have complicated legalistic information made simpler. Mandy reported on the importance of communications being truly accessible and in a format that computer software will be able to read such as no tables as they cannot be properly translated. Mandy advised people to use the resources of Scotland's Inclusive Communications Hub at <http://inclusivecommunication.scot/>

Open Government Action Plan – a report on progress was circulated from Paul Bradley, Open Government Project Coordinator.

10. Date time and place of next SPIF meeting

25th March 2019 from 1pm - 4.30pm and will be hosted by CVS Inverclyde, Inverclyde Community Hub, 75-81 Cathcart Street, Greenock, PA15 1DE.

A light lunch will be served from 1pm and the meeting will start at 1.30pm. For more information about CVS Inverclyde go to <https://www.cvsinverclyde.org.uk/>

Campaign for Freedom of Information in Scotland (CFoIS)
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